

Office of the Secretary of Defense

§ 282.3

VV. Delegations

The General Counsel for the Department of Defense is designated to carry out the responsibilities of the authority head of the Department of Defense for the issuance of additional implementing regulations that are necessary to implement PFCRA and this part to decide cases upon appeal, and to hire or designate employees of the Department of Defense to decide cases on appeal. The General Counsel, Department of Defense, is also designated to appoint presiding officers for the Department of Defense, and may assist in the appointment of presiding officers on detail from other Agencies for all authorities within the Department of Defense.

PART 282—PROCEDURES FOR SETTLING PERSONNEL AND GENERAL CLAIMS AND PROCESSING ADVANCE DECISION REQUESTS

Sec.

282.1 Purpose.

282.2 Applicability and scope.

282.3 Definitions.

282.4 Policy.

282.5 Responsibilities.

APPENDIX A TO PART 282—GUIDANCE

APPENDIX B TO PART 282—CLAIMS DESCRIPTION

APPENDIX C TO PART 282—SUBMITTING A CLAIM

APPENDIX D TO PART 282—PROCESSING A CLAIM

APPENDIX E TO PART 282—APPEALS

APPENDIX F TO PART 282—REQUESTS FOR AN ADVANCE DECISION

AUTHORITY: 5 U.S.C. 552; 10 U.S.C. 2575; 10 U.S.C. 2771; 10 U.S.C. 4712; 10 U.S.C. 9712; 24 U.S.C. 420; 31 U.S.C. 3529; 31 U.S.C. 3702; 32 U.S.C. 714; and 37 U.S.C. 554.

SOURCE: 69 FR 38843, June 29, 2004, unless otherwise noted.

§ 282.1 Purpose.

This part implements policy under 32 CFR part 281 and prescribes procedures for processing and settling personnel and general claims under 31 U.S.C. 3702, 10 U.S.C. 2575, 10 U.S.C. 2771, 24 U.S.C. 420, 10 U.S.C. 4712, 10 U.S.C. 9712, 37 U.S.C. 554, 32 U.S.C. 714 and for processing requests for an advance decision under 31 U.S.C. 3529.

§ 282.2 Applicability and scope.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff,

the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as “the DoD Components”).

(b) The Coast Guard, when it is not operating as a Service in the Navy under agreement with the Department of Homeland Security, and the Commissioned Corps of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA), under agreements with the Departments of Health and Human Services and Commerce (hereafter referred to collectively as “the non-DoD Components”).

§ 282.3 Definitions.

(a) *Armed Forces*. The Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

(b) *Claim*. A demand for money or property under one of the following statutes: 31 U.S.C. 3702, 10 U.S.C. 2575, 10 U.S.C. 2771, 24 U.S.C. 420, 10 U.S.C. 4712, 10 U.S.C. 9712, 37 U.S.C. 554, or 32 U.S.C. 714.

(c) *Committee*. The person or persons invested, by order of a proper court, with the guardianship of a minor or incompetent person and /or the estate of a minor or incompetent person.

(d) *Component Concerned*. The agency/activity (as well as the official designated by the Head of the agency/activity) required to perform the function or take the action indicated or from whose activity a claim arose.

(e) *Final Action*. A finding by the appropriate official under this part concerning a claim from which there is no right to appeal or request reconsideration, or concerning which the time limit prescribed in this part for submitting an appeal or request for reconsideration has expired without such a submission.

(f) *Member*. A member or former member of the Uniformed Services.

(g) *Secretary Concerned*. The Secretary of the Army, addressing matters concerning the Army. The Secretary of the Navy, addressing matters concerning the Navy, the Marine Corps,

§ 282.4

and the Coast Guard when it is operating as a Service in the Navy. The Secretary of the Air Force, addressing matters concerning the Air Force. The Secretary of Homeland Security, addressing matters concerning the Coast Guard when it is not operating as a Service in the Navy. The Secretary of Health and Human Services, addressing matters concerning the PHS. The Secretary of Commerce, addressing matters concerning the NOAA.

(h) *Settlement.* A claim and the amount due that is administratively determined to be valid.

(i) *Uniformed Services.* The Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, and the Commissioned Corps of the PHS and the NOAA.

§ 282.4 Policy.

It is DoD policy that:

(a) Claims shall be settled and advance decisions rendered in accordance with all pertinent statutes and regulations, and after consideration of other relevant authorities.

(b) This part applies to certain claim settlement and advance decision functions that, by statute or delegation, are vested in the Department of Defense or the Secretary of Defense. Appendix B to this part describes the claims included under these functional authorities.

§ 282.5 Responsibilities.

(a) The *General Counsel of the Department of Defense* (GC, DoD), or designee, shall:

(1) Upon the request of the Director, Defense Office of Hearings and Appeals (DOHA), consult on, or render legal opinions concerning, questions of law that arise in the course of the performance of the Director's responsibilities under paragraph (b) of this section.

(2) Render advance decisions under 31 U.S.C. 3529 and oversee the submission of requests for an advance decision arising from the activity of a DoD Component that are addressed to the Director of the Office of Personnel Management or the Administrator General Services in accordance with this part.

(b) The *Director, Defense Office of Hearings and Appeals* (DOHA), or designee, under the GC, DoD (as the *Director*,

32 CFR Ch. I (7–1–05 Edition)

tor, Defense Legal Services Agency), shall:

(1) Consider, and grant or deny, a request by the Secretary concerned under 31 U.S.C. 3702(e) to waive the time limit for submitting certain claims in accordance with 32 CFR part 281 and this part.

(2) Consider appeals from an initial determination, and affirm, modify, reverse, or remand the initial determination in accordance with 32 CFR part 281, this part, and relevant DoD Office of General Counsel opinions.

(c) The *Heads of the DoD Components*, or designees, shall:

(1) Process claims under 31 U.S.C. 3702, 10 U.S.C. 2575, 10 U.S.C. 2771, 24 U.S.C. 420, 10 U.S.C. 4712, 10 U.S.C. 9712, 37 U.S.C. 554, and 32 U.S.C. 714 in accordance with this part.

(2) Ensure that requests for an advance decision that originate in their organizations are prepared and submitted in accordance with this part.

(3) Pay claims as provided in a final action in accordance with this part.

(d) The *Heads of the Non-DoD Components*, or designees, shall:

(1) Process claims under 31 U.S.C. 3702, 10 U.S.C. 2575, 10 U.S.C. 2771, or 37 U.S.C. 554 in accordance with this part.

(2) Ensure that requests for an advance decision that originate in their organizations are prepared and submitted in accordance with this part.

(3) Pay claims as provided in a final action in accordance with this part.

APPENDIX A TO PART 282—GUIDANCE

(a) *Submitting a claim.* The procedures a claimant must follow to submit a claim are at Appendix C to this part.

(b) *Processing a claim.* The procedures a DoD Component must follow in processing a claim are at Appendix D to this part.¹

(c) *Appeals.* The procedures for appealing initial determinations are at Appendix E to this part.

(d) *Disposition of claims upon settlement in general.*

(1) The appropriate official for the Component concerned shall pay a claim in accordance with the final action concerning the claim.

¹Contact the appropriate non-DoD Component for the procedures it follows in processing a claim.